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SUBJECT: FTA - JOINT COMMITTEE CONCLUDES SECOND ANNUAL REVIEW

REFS: A) Singapore 946 B) Singapore 1046

1. (SBU) Summary. Representatives from the USG and GOS (the "Joint Committee") met in Washington March 30 for the second annual review of the U.S.-Singapore Free Trade Agreement (FTA). The review agenda (individual items noted below) focused both on implementation of the current agreement and possible future programs, including telecom, environment, media, market access (tariff acceleration, harmonized system changes, rules of origin, textiles, etc.), financial services, intellectual property, pharmaceuticals (parallel imports), trade secrets, and whistleblower protections. AUSTR Barbara Weisel led the U.S. delegation; Ministry of Trade and Industry Deputy Secretary LOH Wai Keong led the Singapore delegation. The Joint Committee agreed to following:

-- Telecom: the Joint Committee agreed that its respective regulatory experts would convene a digital video conference to discuss telecom (local leased circuit or "last mile") implementation and obligations concerning technical specifications and pricing.

-- Transparency in the Appeals Process and Rule-Making: the GOS agreed to review its appeals and rule-making processes as they applied to the telecom and media sectors, respectively, to determine how it might make them more transparent.

-- Review of Environmental Cooperation: the Joint Committee reviewed activities to date under the Memorandum of Intent (MOI) on Cooperation in Environmental Matters, and agreed that relevant officials will hold a biennial meeting before the end of 2006 to review the status of cooperation under the MOI.

-- Arowana Dragonfish: the Joint Committee agreed to explore how the FTA's environmental cooperation mechanism might be used to open a "new track" for discussions related to Singapore's export request, in particular by supporting work to conserve Arowana in the wild.

-- Ramin Timber: the Joint Committee agreed to continue discussions on how to increase bilateral efforts, and support regional initiatives, to combat illegal logging and to screen transshipped cargo. In particular, they agreed that relevant officials would hold meetings (scheduled for late April) to

explore ways to increase joint efforts in the Asia-Pacific region to combat illegal logging.

-- Tariff Acceleration: the Joint Committee agreed to launch the tariff acceleration process, as provided in Article 2.2.3 of the FTA. The USG explained its domestic process, which begins with a Federal Register notice seeking product proposals. Singapore indicated its interest in accelerated tariff elimination for certain polycarbonates, and increased Tariff Rate Quotas (TRQs) for nutritionals and peanuts. The USG made no commitment on products that might be included in the process, but noted its practice of not changing the arrangements for TRQ products, which are by definition sensitive.

-- Textiles: The USG noted that Singapore's request for changes to its textiles Tariff Preference Level (TPL) required Congressional approval. The USG agreed to follow-up on Singapore's second "short supply" request (the first request is currently undergoing Congressional review). The USG agreed to consider (but was disinclined to approve) Singapore's request for fewer on-site inspections of its textiles and apparel goods manufacturers.

-- Rules of Origin (ROO): The USG agreed to consider Singapore's proposed request to change the ROO on photocopiers, but made no commitments.

-- Credit Bureau Access: the USG agreed to provide the GOS with information concerning our law governing access to confidential financial information.

-- Intellectual Property: the GOS agreed to monitor whether the discrepancy in maximum penalties for different types of copyright

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infringement created enforcement-related difficulties. The GOS agreed to review the overall level of resources dedicated to the IPR Branch of the Singapore Police.

-- Trade Secrets Protections: the USG agreed to provide specific industry examples (if available publicly) for the GOS to review as part of its assessment of whether existing protections were inadequate.

-- Dispute Settlement Procedures: the Joint Committee accepted the proposed procedures.

-- Annex 8 Provisions: the Joint Committee accepted the proposed provisions concerning U.S. and Singapore services market access reservations.

-- Medical Products Working Group: the USG and GOS agreed to follow up with the Food and Drug Administration and the Health Sciences Authority, respectively, for an update on the activities of the Medical Products Working Group.

End summary.

FTA Benefits

12. (U) USG and GOS representatives affirmed that overall FTA implementation had proceeded smoothly, with a minimum of issues. AUSTR Barbara Weisel noted that two-way trade had increased more than 12 percent since the FTA came into effect January 1, 2004, including a substantial increase in services, especially for Singapore. Most recent data showed U.S. accumulated foreign direct investment (FDI) in Singapore had increased 13 percent and that Singapore's FDI in the United States had increased 24 percent (based on respective accounting methods), she said.

Telecom

-- Arrangements for LLCs, including pricing (USG)
-- Transparency of the appeals process (USG)

¶3. (SBU) With respect to Singapore's failure thus far to implement its commitments to offer "tail" local-leased circuits (LLCs) at "reasonable (wholesale) rates" using open standard technical specifications, the USG and GOS agreed to convene a digital video conference for their respective regulatory and technical experts (Note: representatives from the Infocomm Development Authority (IDA), Singapore's telecom regulator, were unavailable to participate in the Joint Committee proceedings. End note.)

¶4. (SBU) The USG raised the lack of transparency in the appeals process (SingTel, Singapore's dominant and government-linked carrier, has repeatedly stalled implementation of revised LLC regulations by privately appealing IDA's decisions to the Minister for Information, Communications and the Arts (MICA); MICA has excluded industry and other interested parties from this process.) The GOS agreed to review the appeals process and to explore how it might be remedied. Both sides acknowledged that Singapore law and the FTA currently allowed private (and non-transparent) appeals. AUSTR Weisel underscored the need for greater transparency, noting that during the FTA negotiations, both Congress and industry were particularly concerned about the lack of transparency among Singapore's government-linked companies (GLCs). She emphasized that this issue would continue to receive close scrutiny.

Media

-- Pay TV: Transparency in rule-making (USG)

¶5. (SBU) The GOS said that the Media Development Authority (MDA) was reviewing the benefits of exclusive carriage arrangements following MICA's recent decision to set aside MDA's imposition of "ex ante" reviews of television licenses (ref A). The GOS

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acknowledged that MDA could improve its public consultation and rule-making methods. AUSTR Weisel noted that several U.S. companies were following this issue carefully and that the United States had considerable expertise in this area that it would be willing to make available to the GOS.

Environmental Cooperation

-- Activating the cooperation mechanism
-- Preparations for the first biennial review of the FTA
-- CITES: Arowana Dragonfish (GOS request); Ramin (USG request)

¶6. (SBU) The Joint Committee reviewed progress under the Plan of Action for Environmental Cooperation concluded in September 2005 in accordance with the MOI on Cooperation in Environmental Matters. They noted seven distinct activities undertaken during the past year, including bilateral collaboration on vessel pollution, the ASEAN sustainable cities initiative, the ASEAN wildlife enforcement network (WEN), the ASEAN enforcement network, consultations in Singapore by a U.S. environmental prosecutor, and endangered species interdiction training for Singapore airport officials. Both sides agreed to establish a date for the biennial review of environmental cooperation mandated under the MOI. The USG suggested that we hold the review before the end of 2006, possibly in November.

¶7. (SBU) The USG discussed the requirements that Singapore would have to meet in order to export Arowana Dragonfish, an endangered species, to the United States. The Joint Committee agreed to explore how the FTA's environmental cooperation mechanism might be used to make progress on this issue, in particular by supporting work to conserve Arowana in the wild. (Note: Singapore's Arowana Dragonfish for export are farm-raised; however, under the U.S. Endangered Species Act, before the United States can approve any request for a permit to import the species, a determination must be made that the import will enhance the survival of the species in the wild. There is no

precedent for allowing commercial trade in endangered species.
End note.)

¶8. (SBU) On Ramin timber, both sides committed to continue discussions on how to increase bilateral efforts, and support regional initiatives, to combat illegal trade in Ramin timber and to screen transshipped cargo. In particular, they agreed to follow-up meetings (scheduled for late April) designed to increase joint efforts in the Asia-Pacific region to combat illegal logging. (Note: Singapore's amended Endangered Species Import and Export Act, which came into effect March 1, empowers authorities to search transshipped and transit cargo (ref B). No CITES experts accompanied Singapore's delegation, which was unaware of the new provisions. End note.)

Market Access

-- Tariff acceleration process: polycarbonates, peanuts, and
nutritionals (GOS)
-- HS2007 changes (GOS)
-- ROO changes for photocopiers (GOS)
-- Textiles issues (GOS)
 - request for improved TPL
 - status of "short supply" requests
 - request for reduction in number of on-site inspections of
 registered textiles and apparel goods enterprises without
 prior notice

¶9. (SBU) The Joint Committee agreed to formally launch the tariff acceleration process as provided in Article 2.2.3 of the FTA. Singapore explained its interest in the accelerated elimination of tariffs on certain polycarbonates (HS3907.40.00), and increases in Tariff Rate Quotas (TRQs) for nutritionals (HS1901.10), and peanuts (HS2008.11); Deputy AUSTR Bryan said that the U.S. approval process was considerably more complicated than Singapore's. She explained that, given the sensitivities associated with the specific products, the United States had yet to approve any TRQ increases of tariff accelerations on these

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products in the context of an FTA.

¶10. (SBU) The Joint Committee discussed what would be required to update the harmonized system that comes into effect January 1, 2007 ("HS2007"); the USG declined to discuss specific products. The USG explained that, under the U.S. system, a key objective would be to keep proposed changes simple to avoid the time-consuming process of writing and seeking approval for new rules.

¶11. (SBU) With regard to Singapore's request for a change to the rules of origin (ROO) for photocopiers (HS9009.1200), the USG said that it could put the request forward, but made no commitments.

¶12. (SBU) Concerning Singapore's proposed increase of its textile tariff preference level (TPL), the USG noted that Singapore was underutilizing the current TPL, which would make it difficult to justify any request for changes; support of our domestic textile industry (which was unlikely) would also be required. The USG explained that any changes to the FTA, including Singapore's request to change its TPL, would require the approval of the U.S. Congress.

¶13. (SBU) With regard to Singapore's two textile short-supply requests, the USG confirmed that the consultation and layover period for the first request was expected to end the week of April 10; USTR said that it would move forward on next steps regarding Singapore's second request. It noted that the entire process, taking into account an International Trade Commission (ITC) investigation and congressional review, would take approximately six months, with implementation of approved changes to the FTA rules of origin before the end of this year.

¶14. (SBU) In accordance with FTA Article 5.3.4, the USG said it would consider -- but was disinclined to approve -- Singapore's

request for fewer on-site inspections of its textile and apparel goods enterprises without prior notice. U.S. Customs and Border Protection noted that these inspections provided valuable intelligence related to the increased illegal transshipment of textile and apparel goods originating in China, particularly in items under China-specific textile safeguards and those products covered under the November 2005 United States-China Memorandum of Understanding Concerning Trade in Textile and Apparel Products. The GOS expressed its hope that its request would remain an open option should the number of illegal shipments decrease.

Financial Services

- Access to ATM networks (USG)
- Non-banking credit services (USG)

¶15. (SBU) On access for U.S. qualified full service banks to Singapore's local ATM network, the USG stressed the benefits that would be derived in terms of enhanced competition, a greater variety of products, and lower costs to consumers. The GOS said that the Monetary Authority of Singapore (MAS) was considering the possibility of allowing non-bank financial institutions to also apply for access to the local ATM network. It did not anticipate any implementation difficulties with the existing FTA provision for full service banks that comes into effect July 1, 2006.

¶16. (SBU) In response to questions about the benefits of broader access to credit services, the USG agreed to provide information on our legal requirements concerning financial information. The USG stressed that, in addition to expanding access, Singapore's credit bureaus needed to begin collecting positive as well as negative information to enhance the lending effectiveness of financial institutions.

Intellectual Property

- Penalties for Copyright Act (136.3A) violations (USG)
- Inadequate resources for Singapore Police IPR Branch (USG)

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¶17. (SBU) Noting that provisions under Singapore's amended Copyright Act had come into effect only recently (January and August 2005), the GOS agreed to monitor whether the discrepancy in maximum penalties for different types of copyright infringement created enforcement-related difficulties in the future (Note: Section 136(3A) of the Copyright Act covering copyright infringements for "any other purpose" provides for a fine not exceeding S\$20,000 (US\$12,270) or to imprisonment not exceeding six months or both; in the case of a second or subsequent offense, the fine cap increases to S\$50,000 (US\$30,675) and the jail term to a maximum of three years. Penalties and jail terms for other offenses covered by the Copyright Act are generally much higher. End note.) The GOS agreed to review the overall level of resources dedicated to the IPR Branch of the Singapore Police, but asserted that they were adequate for the IPR Branch's focus on larger-scale offenders.

Parallel Imports of Pharmaceuticals

- Safety considerations and IPR (USG)

¶18. (U) The USG raised industry concerns that, by allowing parallel imports of pharmaceuticals (as provided for in the FTA), it would be increasingly difficult to control imports of counterfeit drugs. The GOS noted that it had not previously identified this as an area of concern, in large part due to Singapore's strict health and safety, IPR, and import regulations.

Trade Secrets and Whistleblower Protections

- Lack of trade secrets protections (USG)
- Inadequate whistleblower legislation (USG)

¶19. (U) In response to USG concerns about inadequate trade secrets protections, the GOS argued that its common law system

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provided adequate safeguards. It requested that the USG provide specific industry examples for its review to help assess whether regulatory and legal enhancements were in fact necessary. With regard to inadequate whistleblower protections, the GOS said that, although the local media had focused on the issue over the past several months, the government had not taken an official position.

¶20. (U) Members of the U.S. delegation cleared this message.

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